

**JOINT LEGISLATIVE OVERSIGHT COMMITTEE
ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES**



PROGRESS REPORT TO THE GENERAL ASSEMBLY

MARCH 2003

TABLE OF CONTENTS

Letter of Transmittal	i
Membership of the Joint Legislative Oversight Committee	ii
 Part I	 1
Introduction	
Summary of Activities	
 Part II	 3
Summary of Minutes	
 Appendices	 11
Appendix I: Authorizing Legislation	
Appendix II: HB 381	

NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27601

**JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES**

Senator Stephen Metcalf, Co-Chair
520 Legislative Office Building
Raleigh, N.C. 27601
(919) 733-5748

Representative Verla Insko, Co-Chair
1323 Legislative Building
Raleigh, N.C. 27601
(919) 733-5775

March 31, 2003

TO THE MEMBERS OF THE 2003 GENERAL ASSEMBLY

Pursuant to Session Law 2000-83, House Bill 1519 of the North Carolina General Statutes, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services submits its report and recommendations to the 2003 General Assembly for the 2003 Regular Session.

Respectfully submitted,

Senator Stephen Metcalf

Representative Verla Insko

Co-Chairs
Joint Legislative Oversight Committee on Mental Health,
Developmental Disabilities and Substance Abuse Services

**JOINT LEGISLATIVE OVERSIGHT COMMITTEE
ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES
AND SUBSTANCE ABUSE SERVICES
MEMBERSHIP LIST*(New Membership for 2003 pending)**

2001 - 2002

Senator Stephen Metcalf – Co-Chair
129 Westwood Rd.
Asheville, N.C. 28804
H: 828-232-1195 B: 828-232-1998

Senator Austin Allran
515 Sixth St., N.W.
Hickory, N.C. 28601
H: 828-327-2632 B: 828-322-1410

Senator Charlie Dannelly
3167 Dawnshire Ave.
Charlotte, N.C. 28216
H: 704-392-1227

Senator Virginia Foxx
11468 Highway 105
Banner Elk, N.C. 28604
H/B: 828-963-5829

Senator Oscar Harris
P.O. Box 578
Dunn, N.C. 28335
H: 910-892-3377 B: 910-892-1021

Senator Jeanne Lucas
PO Box 3366
Durham, N.C. 27702
H: 919-688-2838 B: 919-682-0217

Senator William Martin
P.O. Box 21363
Greensboro, N.C. 27420
H: 336-373-8405 B: 336-373-1530

Senator William Purcell
1301 Dunbar Dr.
Laurinburg, N.C. 28352
H/B: 910-276-7328

Representative Verla Insko – Co-Chair
610 Surry Rd.
Chapel Hill, N.C. 27514
H: 919-929-6115

Representative Martha Alexander
1625 Myers Park Dr.
Charlotte, N.C. 28207
H: 704-365-1003

Representative Walter Church, Sr.
5253 Mineral Springs Mountain Ave.
Valdese, N.C. 28690
H: 828-879-3761 B: 828-874-2141

Representative James Crawford, Jr.
509 College St.
Oxford, N.C. 27565
H: 919-693-6119 B: 252-492-0185

Representative Beverly Earle
312 S. Clarkson St.
Charlotte, N.C. 28202
H: 704-333-7180

Representative Theresa Esposito
207 Stanaford Rd.
Winston-Salem, N.C. 27104
H: 336-765-5176

Representative Lyons Gray
200 Pine Valley Rd., SW
Winston-Salem, N.C. 27104
B: 336-722-2311

Representative Edd Nye
P.O. Box 8
Elizabethtown, N.C. 28337
H: 910-862-2420 B: 910-862-3679

STAFF

Dr. Alice Lin
Project Manager
733-6215

Rennie Hobby
Committee Assistant
733-5639

PART I

INTRODUCTION

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services was established by the enactment of House Bill 1519 (Appendix I) during the 2000 Session in order to recommend a plan to reform North Carolina's public mental health, developmental disabilities, and substance abuse (MH/DD/SA) services. This Committee is composed of eight members of the Senate and eight members of the House of Representatives. The authorizing legislation mandates that the Committee submit an interim report to the General Assembly by January 2001 and periodically thereafter. The first interim report was submitted in January 2001. A progress report on the reform bill HB381 (Appendix II) was submitted to the General Assembly in October 2001, which covered changes in governance and LOC activities to date. A second interim report on critical implementation activities was submitted in May 2002. This third interim report covers the Oversight Committee's activities between May 2002 and March 2003.

SUMMARY OF ACTIVITIES

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) recommended in its October 2001 progress report that North Carolina begin its multi-year reform of the public mh/dd/sas system by focusing on assuring accountability for public MH/DD/SA services offered to consumers and families in North Carolina. HB 381 was introduced during the 2001 Session and passed in mid-October. HB 381 strengthens the State's oversight and monitoring role, as well as its standard-setting responsibilities. The Department of Health and Human Services is required to develop a coherent State MH/DD/SAS Plan, reconcile and simplify State rules and standards, coordinate policy among its various Divisions, and delineate a State Business Plan describing how the Division of MH/DD/SAS will manage the resources entrusted to it, and develop criteria for the submission of Local Business Plans to be submitted by Counties.

HB 381 requires the LOC to receive quarterly progress reports from the Secretary of the Department of Health and Human Services to fulfill its oversight responsibility for the reform plan. It also requires the LOC to review progress of state plan, and emerging implementation concerns related to HB 381.

The LOC did not meet between May and October, but began the Committee meetings in November 2002. Three meetings have been held in November 2002, January 2003, and February 2003. At the February LOC meeting, a resolution to propose a children's bill to study integration of services for children with multi-system needs was made. HB 169/SB 262 were introduced in March 2003.

Areas of LOC focus during the report period included the following:

- ✓ The progress and quarterly report on the Department of Health and Human Services state plan implementation
- ✓ The reorganization plan of the Division of MHDDSAS
- ✓ Transition of consumers from state hospitals to community and concurrent community capacity building
- ✓ Technical assistance from consulting firm engaged by the Division
- ✓ Submission of letters of intent from counties and development of business plans for local management entities (LMEs) and emerging concerns during the transition
- ✓ Development of cost modeling for LMEs and services, and establishment of uniform service standards
- ✓ CAP-MR waiver redesign
- ✓ The State's technical assistance to counties and areas for transition planning
- ✓ Integration of services to children with multi-system needs

Following are minutes of three Legislative Oversight Committee meetings from November 2002 to March 2003.

PART II

COMMITTEE AND WORK GROUP PROCEEDINGS

November 13, 2002: Oversight Committee Meeting

The Co-Chairs, Representative Verla Insko and Senator Steve Metcalf, welcomed the members back following the passage of the state budget and rigorous statewide elections. They thanked everyone for their hard work over the last few months in overseeing the implementation of HB 381. They announced that a decision regarding the General Assembly leadership is still pending.

Representative Insko thanked Senator Martin and Representative Esposito for their contributions during their tenure as legislators, not only to North Carolina and the General Assembly, but also to the populations this Committee serves. She also welcomed Dr. Lin back as Project Manager to the Committee.

Dr. Lin gave her project management report on the last year's activities, and noted that the progress made in moving the reform legislation was impressive, both with the LOC (in fulfilling the task of restructuring MHDDSAS Commission, and in reviewing financing strategies), and with the Department, area programs and the counties (implementation tasks are on track with general acceptance of a local management entity concept). She noted that there are still pending concerns about the transition planning—how consumers will be assured of services needed as the governance changes and as the State continues with hospital discharges and community services development.

Dr. Rich Visingardi, Director of DMHDDSAS, reported on the Division's reorganization efforts and walked the Committee through the table of organization and intended objectives for restructuring. Follow-up questions from the Committee ensued. Senator Foxx asked for clarification on the proper responsibility for licensing. Senator Martin asked if the reorganization would ensure needed attention to special needs of the three disability groups. Dr. Visingardi gave explanation for each question.

Senator Allran asked for more explanation of Quality Management, Best Practice and Justice System teams. Representative Insko asked if as a result of the reorganization, there would be concurrent savings. Dr. Visingardi provided answers to Senator Allran's question and noted for Representative Insko that the reorganization will reduce the staffing from 215 to 180.

Senator Metcalf asked about the role of Consumer Empowerment Team in the reorganization plan, as it is the intent of the reform legislation to provide a strong consumer voice at the local and state levels. Dr. Visingardi responded that this indeed is the intent and during implementation some local areas are moving faster than others. However, the Division is actively recruiting for the Division Advocacy and Consumer Services chief.

Dr. Visingardi reviewed a planning chart, which showed the movement from state facilities to communities. He underscored the importance of orderly transition.

Ms Tara Lawson, deputy director of the Division of MHDDSAS, gave an update on the plan to develop local governance structure. All 100 counties have noted their preference to be included in Phase I, II, or III, with those interested in being part of Phase I having to submit their business plan by July 2003. The three phases are consistent with the reform bill's requirement for a gradual implementation schedule. The Division has identified liaison staff for each local program to work closely on the plan development.

Mr. Don Willis from the Division responded to additional inquiries from the group on transition of consumers from state hospitals to community settings by describing the process and follow-up monitoring. He mentioned that some consumers currently are awaiting transfers to other states.

Senator Dannelly asked the length of time it takes for the inter-state transfers to take place. Mr. Willis replied that it is contingent on the receiving state's cooperation, which is uneven.

Mr. John O'Brien, consultant from the Technical Assistance Collaborative (TAC), gave an overview of the scope of work requested by the Division. TAC will be assisted by Pareto Solutions in developing evidence-based best practices for the community system, optimizing

federal revenue share by financing rehabilitation services, developing strategies to enhance provider participation, and cost modeling to standardize infrastructure cost for local management entities, as well as services. He noted that some of the consulting reports would become available in the spring, with a final report due in July 2003.

Representative Insko asked the audience for comments. Several public members offered comments on hospital downsizing and involvement of consumers and advocates on the local advisory committees. Representative Insko noted that the LOC project management office would follow these concerns.

January 21, 2003: Oversight Committee Meeting

Representative Insko called the meeting to order and asked Senator Metcalf to make opening comments. He thanked members and the audience for their faithful attendance. He stated that there would be transition activities involving committee membership and possibly the chairs, but they must all await appointments-by the House and Senate leadership. Representative Insko added that the greatest achievement has been the reestablishment of trust among stakeholders, people are communicating and clients and consumers are the primary focus. She thanked Senator Martin for his service and thanked staff for their hard work.

Dr. Alice Lin, Project Manager, presented her Project Manager's Report beginning with a summary of activities of the last three months. She reported that after reviewing the latest quarterly report from the Division, she suggested a slight format change to include barriers and problem areas along with accomplishments, in order for the Oversight Committee to be aware of emerging problems. She also reviewed areas of focus, such as reorganization, transitioning consumers from hospitals into the community, building community capacity and following the progress of the business plans received from the Area Programs and Area Authorities.

Senator Dannelly asked that in monitoring the reform efforts, special attention be given to the negative impact of budget cuts on services to consumers. Dr. Lin said this would be attended to.

Dr. Visingardi reported on the progress of the reorganization and introduced Mr. Chris Phillips as the Chief of Advocacy and Consumer Services. He mentioned that by March 2003 the reorganization plan would become operational. He then reviewed the progress on the submission of local business plans. Of the 32 submitted so far, some required additional technical assistance in consolidating functions.

Senator Purcell asked Dr. Visingardi address the issue of divestiture. Dr. Visingardi said that there are concerns about rate and reimbursement structure, and the Division is working closely with local area programs to avoid any potential de-stabilization in the transition.

Representative Nye asked if anyone is monitoring the provider network to assure of their credibility to avoid “flight by night” operation. Dr. Visingardi responded that the first line of response should originate at the local community level, with state oversight.

Representative Insko asked if there is a process to certify providers to assure quality. Ms. Tara Larson from the Division explained the current licensing and certification process in place.

Mr. Don Wills from the Division gave an extensive report on the expansion of community capacity and reduction of reliance on state psychiatric hospitals. He shared a multi-year census reduction plan for the state hospitals and reinvestment of the “bridge funds” into communities for expansion or development of alternative services. He explained the formula for allocating the funds to counties.

Senator Metcalf thanked Mr. Willis for his precise presentation and asked members for comments. Most of the follow-up questions centered around the perceived unfairness in rewarding counties that have historically overused the state hospitals, such as Wake County’s proposed funding allocation despite its over-utilization of Dorothea Dix Hospital. Senator Foxx stated that the enhanced funds for counties that have failed to develop community service alternatives might have also short-changed those counties that have performed well. Senator Purcell cited his region as one being short-changed and questioned the fairness as well. Representative Nye added his concern about the allocation formula. Representative Earle expressed her unhappiness with the formula, calling it “rewarding bad behavior.”

He further inquired about the potential in discharging patients from state hospitals to homeless shelters. Mr. Wills responded that the data showed none had been discharged into shelters.

Senator Metcalf shared his concerns that savings from downsizing the hospitals should stay in the system, and urged the members to continue with their advocacy on behalf of citizens in need of MHDDSA services.

Representative Insko asked Mr. Willis to distinguish the difference between purchasing bed days by area program and transferring money from hospitals to the community to build community capacity. Mr. Willis said that an area program would be given a set number of bed days, which are divided between acute admissions, adult long-term, adolescence admission and general admission. If the area program exceeds its bed day allocation, then there would be a financial consequence, such as a per diem cost for the use of the bed. This would encourage area programs that are over utilizing state hospitals now to build community capacity.

Dr. Tony Broskowski with Pareto Solutions spoke on the estimate of the LME cost modeling and cost of services. He reviewed data collected in determining cost estimates. He stated that the cost compiled thus far showed that North Carolina would be in step with the national average. Dr. Broskowski then explained to committee members how information was gathered and analyzed to develop cost modeling.

Representative Nye asked for further clarification on the graphs of variance among area programs. Dr. Broskowski explained that the variance reflects different perceived priorities in terms of LME functions by the local programs.

Senator Metcalf asked about the difference between the actual need and the treated need in North Carolina, whether North Carolina has a lower percentage of individuals receiving services than other states. Dr. Broskowski replied that North Carolina is at the bottom half of the number of states in terms of treated individuals.

Representative Insko accepted comments from the audience. One individual gave reactions to the discussion on financing formula for community services, and another noted lack of services for her son with mental illness. A representative from the public service union commented on the impact on employee morale at the hospitals during the downsizing process.

Senator Metcalf closed the meeting by giving a review of the accomplishments of the committee and spoke to the higher level of trust that has been developed among those most concerned about the welfare of people with disabilities. He underscored the importance of adequate funding in order for the reform to succeed.

February 24, 2003: Oversight Committee Meeting

Representative Insko called the meeting to order and explained that the purpose of the meeting was to discuss future legislation and to brief members on issues of the reform. Dr. Richard Visingardi, Director of the Division of MHDDSAS, gave a progress report on the CAP-MR waiver redesign. He explained that the purpose of the CAP waiver is to find out what is not working with the current CAP waiver, and to create more community capacity for individuals with DD. A person-centered programming, rather than slots, shall be used for the new waiver. He further explained that CAP waiver redesign would place North Carolina more on the par with other DD waivers he has seen in other states.

Dr. Stan Slawinski, Chief of State Operated Services for the Division announced that on January 30, 2003, DMA and the Division created a technical amendment to the 1915 waiver and submitted it to CMS (Center for Medicaid Services). At the earliest, it would be May 1, 2003 before implementation takes place and possibly later. He reviewed for the Committee the requirements of eligibility for CAP-MR funding.

Ms. Lisa Haire, Division of MHDDSAS, addressed the three substantive changes to the waiver that were submitted to CMS. The first change, removed the service called "live in caregiver." It could not be determined how a recipient of the waiver service could receive money without it counting against their income and ultimately effect their Medicaid eligibility. The second change was to limit habilitation service for children and third, to change the personal care definition to incorporate the language to provide support, supervision and engage consumer

participation. Also, the respite definition was changed, removing the word "irregular" returning the respite definition to the previous meaning. Also added was the business model consumer directed support that provides some flexibility and control to consumers and family over care staff.

Senator Purcell asked Dr. Visingardi if the present system was over regulated. He responded that they were probably over regulated and not well managed.

Senator Foxx observed that abuse of the waiver program occurs when there is a failure in the System to identify and resolve problems. Dr. Visingardi acknowledged the lack of a real system and the chain of accountability. The Division is moving toward an aggregate budgeting system to improve its management of the program.

Representative Insko added that if we aggregate money we should be able to provide services to more people. She asked if this would change the experience of an individual consumer. Dr. Visingardi said that the habilitation part pays more than the personal care part. This issue is being examined closely.

Representative Nye asked whether the same provider could provide multiple services such as CSB and PCS, and whether they can accumulate hours. Dr. Visingardi replied yes to both questions, adding that the practice is actually encouraged, to ensure well coordinated care, as long as it is part of the individual service plan.

Representative Insko informed the Committee that a one-page briefing *Executive Summary on HB 381 and Implementation* is available which would be an excellent source of reference. Also available for members, a handout addressing Medicaid Disproportionate Share Funds from Secretary Hooker Odom and Deputy Secretary Cansler.

Representative Insko said that regarding the Children's legislation, the Reform Bill and the State Plan do not specifically speak to children's issues and that Senator Foxx and others saw an opportunity for improvement. Representative Insko reiterated that the proposed legislation is to authorize a study that would provide recommendations to the LOC and other interested parties.

Dr. Alice Lin, Project Manager, clarified that though not focusing on the children's issue, in HB 381 there is a section on interagency collaboration. She explained that the genesis for a children's bill came from Senator Foxx's many visits to children's programs and her finding that there was a lack of coordinated assessment and access to services. Children with multiple problems often do not receive proper service. More often than not, children and youth found themselves enrolled in a given children's system by sheer happenstance, rather than careful planning based on needs. This is particularly true of those children with involvement in multiple systems, such as education, social services, juvenile justice, mental health, developmental disabilities, and substance abuse. Dr. Lin reviewed the goals and objectives of the bill: survey and analyze evidence-based best practices, reduce duplication in assessments, and make recommendations for changes in the North Carolina children's service systems.

Senator Purcell wanted to know how much the study would cost. Dr. Lin replied that it should not be too costly, less than \$50,000 according to the initial estimate.

Senator Metcalf moved that the Oversight Committee authorize a bill to look at children's services and to make recommendations as outlined in the handout. The Committee approved the motion.

Concerning recent articles about disproportionate share, Representative Earle asked when DHHS would be reporting to the Appropriations Committee. Senator Dannelly asked why did the General Assembly find out about it belatedly in the newspaper instead. This concern will be conveyed to the Secretary of DHHS.

APPENDIX I

SESSION 1999

SESSION LAW 2000-83
HOUSE BILL 1519

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES, AND TO DIRECT THE OVERSIGHT COMMITTEE TO DEVELOP A PLAN TO REFORM THE STATE SYSTEM FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

Whereas, in 1998 and 1999 the General Assembly directed the State Auditor to coordinate and contract for a study of the State Psychiatric Hospitals and Area Mental Health Programs; and

Whereas, the "Study of State Psychiatric Hospitals and Area Mental Health Programs" ("Study"), April 1, 2000, was conducted by the Public Consulting Group, Inc., under the coordination of the State Auditor, and with the cooperation and assistance of the Department of Health and Human Services and other organizations and individuals; and

Whereas, the findings and recommendations of the Study present a comprehensive blueprint for reform of the State's mental health system; and

Whereas, the General Assembly endorses the findings of the Study; and

Whereas, effective implementation of mental health reform requires continuous legislative oversight to review and consider the recommendations of the Study and other matters and to recommend the necessary changes to State law and policy; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Findings. -- The General Assembly finds that:

(1) The State and local government entities are not using effectively and efficiently available resources to administer and provide mental health, developmental disabilities, and substance abuse services uniformly across the State.

(2) Effective implementation of State policy to assist individuals with mental illness, developmental disabilities, and substance abuse problems requires that a standard system of services, designed to identify, assess, and meet client needs within available resources, be available in all regions of the State.

(3) The findings of recent comprehensive independent studies, and recent federal court decisions, compel the State to consider significant changes in the operation and utilization of State psychiatric hospital services.

(4) State and local government funds for mental health, developmental disabilities, and substance abuse services must be committed on a continuing, stabilized basis and will need to be increased over time to ensure that the purposes of mental health system reform are achieved.

(5) Reform of the State mental health, developmental disabilities, and substance abuse services system is necessary and should begin immediately. Reform efforts should focus on correcting system inefficiencies, inequities in service availability, and deficiencies in funding and accountability, and on improving and enhancing services to North Carolina's citizens.

Section 2. Oversight Committee Established. -- Chapter 120 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 27.

"The Joint Legislative Oversight Committee
on Mental Health, Developmental Disabilities,
and Substance Abuse Services.

"§ 120-240. Creation and membership of Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(a) Establishment; Definition. -- There is established the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(b) Membership. -- The Committee shall consist of 16 members, as follows:

(1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, as follows:

- a. At least two members of the Senate Committee on Appropriations.
- b. The chair of the Senate Appropriations Committee on Human Resources.
- c. At least two members of the minority party.
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, as follows:
 - a. At least two members of the House of Representatives Committee on Appropriations.
 - b. The cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services.
 - c. At least two members of the minority party.

(c) Terms. -- Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2001 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-241. Purpose of Committee.

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall examine, on a continuing basis, systemwide issues affecting the development, financing, administration, and delivery of mental health, developmental disabilities, and substance abuse services, including issues relating to the governance, accountability, and quality of services delivered. The Committee shall make ongoing recommendations to the General Assembly on ways to improve the quality and delivery of services and to maintain a high level of effectiveness and efficiency in system administration at the State and local levels. In conducting its examination, the Committee shall study the budget, programs, administrative organization, and policies of the Department of Health and Human Services to determine ways in which the General Assembly may encourage improvement in mental health, developmental disabilities, and substance abuse services provided to North Carolinians.

"§ 120-242. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is eight members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Section 3.(a) Plan for Mental Health System Reform. --Terms Defined. -- As used in this section, unless the context clearly provides otherwise:

(1) "Committee" means the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(2) "Mental Health System Reform" includes the system of services for mental health, developmental disabilities, and substance abuse.

(3) "Plan" means the Plan for Mental Health System Reform developed and recommended by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(4) "State Auditor/PCG, Inc., Study" means the "Study of State Psychiatric Hospitals and Area Mental Health Programs, April 1, 2000", conducted by the Public Consulting Group, Inc., under coordination by and contract with the State Auditor.

Section 3.(b) Development of Plan for Mental Health System Reform. -- The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services established under Article 27 of Chapter 120 of the General Statutes shall develop a Plan for Mental Health System Reform. It is the intent of the General Assembly that the Plan shall be fully implemented not later than July 1, 2005.

Section 3.(c) Purpose and Content of the Plan. – The Plan shall provide for systematic, phased-in implementation of changes to the State's mental health system. In developing the Plan, the Committee shall do the following:

- (1) Review and consider the findings and recommendations of the State Auditor/PCG, Inc., Study.
- (2) Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels. The report shall include:
 - a. An explanation of how and the extent to which the proposed changes are in accord with or differ from the recommendations of the State Auditor/PCG, Inc., Study.
 - b. Proposed time frames for implementing mental health system reform on a phased-in basis, and the recommended effective date for full implementation of all recommended changes.
 - c. An estimate of the amount of State and federal funds necessary to implement the changes. The estimate should indicate costs of each phase of implementation and the total cost of full implementation.
 - d. An estimate of the amount of savings in State funds expected to be realized from the changes. The estimate should show savings expected in each phase of implementation, and the total amount of savings expected to be realized from full implementation.
 - e. The potential financial, economic, and social impact of changes to the current governance, structure, and financing of the mental health system on providers, clients, communities, and institutions at the State and local levels.
 - f. Proposed legislation making the necessary amendments to the General Statutes to enact the recommended changes to the system of governance, structure, and financing.
- (3) Study the administration, financing, and delivery of developmental disabilities services. The study shall be in greater depth and detail than addressed in the State Auditor/PCG, Inc., Study. The Committee shall make a progress report on its study of developmental disabilities services to the 2001 General Assembly upon its convening.
- (4) Study the feasibility and impact of and best methods for downsizing of the State's four psychiatric hospitals. In conducting this study, the Committee shall:
 - a. Take into account the need to enhance and improve community services to meet increased demand resulting from downsizing, and
 - b. Consider the findings and recommendations of the MGT of America Report of 1998, as well as the State Auditor/PCG, Inc., Study.
- (5) Consider the impact of mental health system reform on quality of services and patient care and ensure that the Plan provides for ongoing review and improvements to quality of services and patient care.
- (6) Ensure that the Plan provides for the active involvement of consumers and families in mental health system reform and ongoing implementation.
- (7) Address the need to enhance and improve substance abuse services, including services for the prevention of substance abuse.
- (8) Recommend a mental health, developmental disabilities, and substance abuse services benefits package that will provide for basic benefits for these services as well as specific benefits for targeted populations.
- (9) Take into account the State's responsibility to enable institutionalized persons and persons at risk for institutionalization to receive services outside of the institution in community-based settings in accordance with the United States Supreme Court decision in Olmstead vs .L.C., (1999).
- (10) Identify and address issues pertaining to the administration and provision of mental health services to children.
- (11) Address issues, problems, strengths, and weaknesses in the current mental health system that are not addressed in the State Auditor/PCG, Inc., Study but that warrant consideration in the development of a reformed mental health system.
- (12) Consider whether the State shall implement a contested case hearings procedure for applicants and recipients of mental health, developmental disabilities, and substance abuse services.

Section 3.(d) Subcommittees. -- The Committee shall establish one or more subcommittees to consider and develop specific focus areas of the Plan. Each subcommittee shall be the working group for the focus area assigned by the Committee cochair. The Committee cochair shall appoint the cochair and members of each subcommittee from the Committee membership. The Committee cochair shall invite representatives from the following to participate as nonvoting members of each subcommittee:

- (1) Providers of mental health, developmental disabilities, substance abuse, long-term care, and other

appropriate providers.

(2) Consumers of mental health, developmental disabilities, and substance abuse services and family members of consumers of these services.

(3) State and local government, including area mental health programs.

(4) Business and industry.

(5) Organizations that advocate for individuals in need of mental health, developmental disabilities, and substance abuse services. Subcommittees shall meet at the call of the subcommittee cochair. The Committee cochair shall assign the focus area for each subcommittee. Each subcommittee shall carry out its assignment as directed by the Committee cochair and shall provide its findings and recommendations to the Committee cochair for final decision by the Committee.

Section 3.(e) Reports. -- In addition to the report required under subsection (b) of this section, the Committee shall submit the following reports:

(1) To the 2001 General Assembly, upon its convening:

a. A progress report on the development of the Plan required by this section; and

b. An outline of an implementation process for downsizing the four State psychiatric hospitals.

(2) To the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Appropriations Committees on Health and Human Services, by October 1, 2001, and March 1, 2002, progress reports on the development and implementation of the Plan.

(3) Interim reports on the development and implementation of the Plan to:

a. The 2001 General Assembly, by May 1, 2002. The report shall include legislative action necessary to continue the implementation of changes to the governance, structure, and financing of the State mental health system as recommended by the Committee in its January 2001 report to the General Assembly.

b. The 2003 General Assembly, upon its convening.

c. The 2003 General Assembly, by May 1, 2004. The report shall include legislative action necessary to continue phased-in implementation of the Plan.

(4) To the 2005 General Assembly, upon its convening, a final report on the Plan for Mental Health System Reform.

Section 4. Oversight Committee Appointments. -- The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appointments to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services established under this act not later than 30 days from the date of adjournment sine die of the 1999 General Assembly. The Committee shall convene its first meeting not later than 15 days after all members have been appointed.

Section 5. Department of Health and Human Services Reports. -- On or before October 1, 2000, and on or before March 1, 2001, the Department of Health and Human Services shall report to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the status of the Department's reorganization efforts pertaining to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall also include efforts underway by the Department to better coordinate policy and administration of the Division of Medical Assistance with policy and administration of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Section 6. Effective Date. -- This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 2:55 p.m. this 5th day of July, 2000

APPENDIX II

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-437
HOUSE BILL 381**

**AN ACT TO PHASE IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM
REFORM AT THE STATE AND LOCAL LEVEL.**

Whereas, the 1999 General Assembly, Regular Session 2000, established the Joint Legislative Oversight Committee ("Committee") on Mental Health, Developmental Disabilities, and Substance Abuse Services; and

Whereas, the Committee was directed to develop a Plan for Mental Health System Reform; and

Whereas, the General Assembly expressed the intent that the Plan be fully implemented not later than July 1, 2005; and

Whereas, the General Assembly directed the Committee to "Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels"; and

Whereas, the Committee reviewed the governance, structure, and financing of the current mental health system and reported its findings and recommendations to the 2001 General Assembly for legislative action; Now, therefore,

The General Assembly of North Carolina enacts:

PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES

SECTION 1.1. G.S. 122C-2 reads as rewritten:

"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health, developmental disabilities, and substance abuse problems services in ways consistent with the dignity, rights, and responsibilities of all North Carolina citizens. Within available resources it is the obligation of State and local government to provide mental health, developmental disabilities, and substance abuse services to eliminate, reduce, or prevent the disabling effects of mental illness, developmental disabilities, and substance abuse through a service delivery system designed to meet the needs of clients in the least restrictive available setting, if the least restrictive setting is therapeutically most appropriate, restrictive, therapeutically most appropriate setting available and to maximize their quality of life. It is further the obligation of State and local government to provide community-based services when such services are appropriate, unopposed by the affected individuals, and can be reasonably accommodated within available resources and taking into account the needs of other persons for mental health, developmental disabilities, and substance abuse services.

State and local governments shall develop and maintain a unified system of services centered in area authorities or county programs. The public service system will strive to provide a continuum of services for clients while considering the availability of services in the private sector. Within available resources, State and local government shall ensure that the following core services are available:

- (1) Screening, assessment, and referral.

- (2) Emergency services.
- (3) Service coordination.
- (4) Consultation, prevention, and education.

Within available resources, the State shall provide funding to support services to targeted populations, except that the State and counties shall provide matching funds for entitlement program services as required by law.

As used in this Chapter, the phrase 'within available resources' means State funds appropriated and non-State funds and other resources appropriated, allocated or otherwise made available for mental health, developmental disabilities, and substance abuse services.

The furnishing of services to implement the policy of this section requires the cooperation and financial assistance of counties, the State, and the federal government."

SECTION 1.2.(a) G.S. 122C-3 is amended by adding the following new subdivisions in alphabetical order to read:

- "(1) 'Area director' means the administrative head of the area authority program appointed pursuant to G.S. 122C-121.
- (2) 'Board of county commissioners' includes the participating boards of county commissioners for multicounty area authorities and multicounty programs.
- (3) 'Core services' are services that are necessary for the basic foundation of any service delivery system. Core services are of two types: front-end service capacity such as screening, assessment, and emergency triage, and indirect services such as prevention, education, and consultation at a community level.
- (4) 'County program' means a mental health, developmental disabilities, and substance abuse services program established, operated, and governed by a county pursuant to G.S. 122C-115.1.
- (5) 'Program director' means the director of a county program established pursuant to G.S. 122C-115.1.
- (6) 'Public services' means publicly funded mental health, developmental disabilities, and substance abuse services, whether provided by public or private providers.
- (7) 'Specialty services' means services that are provided to consumers from low-incidence populations.
- (8) 'State' or 'Local' Consumer Advocate means the individual carrying out the duties of the State or Local Consumer Advocacy Program Office in accordance with Article 1A of this Chapter.
- (9) 'State Plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (10) 'Targeted population' means those individuals who are given service priority under the State Plan.
- (11) 'Uniform portal process' means a standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

SECTION 1.2.(b) G.S. 122C-3(5) reads as rewritten:

- "(5) 'Catchment area' means the geographic part of the State served by a specific area authority. ~~authority or county program.~~"

SECTION 1.2.(c) G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

SECTION 1.3. G.S. 122C-64 reads as rewritten:

"§ 122C-64. Human rights committees.

~~Human rights committees responsible for protecting the rights of clients shall be established at each State facility and may be established for area authorities. The Commission shall adopt rules for the establishment of committees. These rules shall include the composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area~~

authorities, facility and for each area authority and county program. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Consumer Advocacy programs. In multicounty area authorities and multicounty programs, the membership of the human rights committee shall include a representative from each of the participating counties."

SECTION 1.4. G.S. 122C-101 reads as rewritten:

"§ 122C-101. Policy.

Within the public system of mental health, developmental disabilities, and substance abuse services, there are both area, county, and State facilities. An area authority or county program is the locus of coordination among public services for clients of its catchment area. To assure the most appropriate and efficient care of clients within the publicly supported service system, area authorities are encouraged to develop and secure approval for a single portal of entry and exit policy for their catchment areas for mental health and substance abuse authorities. Effective January 1, 1994, an area authority shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities."

SECTION 1.5. Part 1 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. The State Plan shall include the following:

- (1) Vision and mission of the State Mental Health, Developmental Disabilities, and Substance Abuse Services system.
- (2) Organizational structure of the Department and the divisions of the Department responsible for managing and monitoring mental health, developmental disabilities, and substance abuse services.
- (3) Protection of client rights and consumer involvement in planning and management of system services.
- (4) Provision of services to targeted populations, including criteria for identifying targeted populations.
- (5) Compliance with federal mandates in establishing service priorities in mental health, developmental disabilities, and substance abuse.
- (6) Description of the core services that are available to all individuals in order to improve consumer access to mental health, developmental disabilities, and substance abuse services at the local level.
- (7) Service standards for the mental health, developmental disabilities, and substance abuse services system.
- (8) Implementation of the uniform portal process.
- (9) Strategies and schedules for implementing the service plan, including consultation on Medicaid policy with area and county programs, qualified providers, and others as designated by the Secretary, intersystem collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.
- (10) A plan for coordination of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services with the Medicaid State Plan, and NC Health Choice.
- (11) A business plan to demonstrate efficient and effective resource management of the mental health, developmental disabilities, and substance abuse services system, including strategies for accountability for non-Medicaid and Medicaid services.
- (12) Strategies and schedules for implementing a phased in plan to eliminate disparities in the allocation of State funding across county

programs and area authorities by January 1, 2007, including methods to identify service gaps and to ensure equitable use of State funds to fill those gaps among all counties."

SECTION 1.6. G.S. 122C-111 reads as rewritten:

"§ 122C-111. Administration.

The Secretary shall administer and enforce the provisions of this Chapter and the rules of the Commission and shall operate State facilities. An area director or program director shall administer the programs of the area authority or county program, as applicable, and enforce ~~the rules of the area board,~~ applicable State laws, rules of the Commission, and rules of the Secretary. The Secretary in cooperation with area and county program directors and State facility directors shall provide for the coordination of public services between area ~~authorities~~ authorities, county programs, and State facilities."

SECTION 1.7.(a) G.S. 122C-112 is repealed.

SECTION 1.7.(b) Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-112.1. Powers and duties of the Secretary.

(a) The Secretary shall do all of the following:

- (1) Oversee development of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
- (3) Establish a process and criteria for the submission, review, and approval or disapproval of business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of business plans.
- (5) Review business plans and, upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
- (6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. Procedures shall include performance measures and report cards for each area authority and county program.
- (7) Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services. Monitoring and oversight shall include compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
- (8) Make findings and recommendations based on information and data collected pursuant to subdivision (7) of this subsection and submit these findings and recommendations to the applicable area authority board, county program director, board of county commissioners, providers of public services, and to the Local Consumer Advocacy Office.
- (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
- (10) Operate State facilities and adopt rules pertaining to their operation.
- (11) Develop a unified system of services provided in area, county, and State facilities, and by providers enrolled or under a contract with the State.

- (12) Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.
- (13) Adopt rules to implement the appeal procedure authorized by G.S. 122C-151.2.
- (14) Adopt rules for the implementation of the uniform portal process.
- (15) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter.
- (16) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252.
- (17) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse.
- (18) Administer and enforce rules that are conditions of participation for federal or State financial aid.
- (19) Carry out G.S. 122C-361.
- (20) Monitor the fiscal and administrative practices of area authorities and county programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by area authorities and county programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.
- (21) Provide technical assistance, including conflict resolution, to counties in the development and implementation of area authority and county program business plans and other matters, as requested by the county.
- (22) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.
- (23) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.
- (24) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to area authorities or county programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.
- (25) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-124.1 and G.S. 122C-125.
- (26) Establish a process for approving area authorities and county programs to provide services directly in accordance with G.S. 122C-141.
- (27) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.
- (28) Enforce the protection of the rights of clients served by State facilities, area authorities, county programs, and providers of public services.
- (29) Adopt rules for the enforcement of the protection of the rights of clients being served by State facilities, area authorities, county programs, and providers of public services.
- (30) Prior to requesting approval to close a State facility under G.S. 122C-181(b):
 - a. Notify the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Mental Health,

- Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure; and
- b. Present a plan for the closure to the members of the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services for their review, advice, and recommendations. The plan shall address specifically how patients will be cared for after closure, how support services to community-based agencies and outreach services will be continued, and the impact on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the committees to which the plan is presented under this subdivision.
- (31) Ensure that the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services is coordinated with the Medicaid State Plan and NC Health Choice.
- (b) The Secretary may do the following:
- (1) Acquire, by purchase or otherwise in the name of the Department, equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs.
- (2) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse; promote best practices.
- (3) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description that shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget and Management as determined by that office.
- (4) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the Department of State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified.
- (5) Enter into agreements authorized by G.S. 122C-346.
- (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-181.
- (7) Contract with one or more private providers or other public service agencies to serve clients of an area authority or county program and reallocate program funds to pay for services under the contract if the Secretary finds all of the following:
- a. The area authority or county program refuses or has failed to provide the services to clients within its catchment area, or provide specialty services in another catchment area, in a manner that is at least adequate.

- b. Clients within the area authority or county program catchment area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another area authority or county program.
- c. There is at least one private provider or public service agency within the area authority or county program catchment area, or within reasonable proximity to the catchment area, willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and to the applicable participating boards of county commissioners of the Secretary's intent to contract and shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.

- (8) Contract with one or more private providers or other public service agencies to serve clients from more than one area authority or county program and reallocate the funds of the applicable programs to pay for services under the contract if the Secretary finds either that there is no other area authority or county program available to act as the administrative entity under contract with the provider or that the area authority or county program refuses or has failed to properly manage and administer the contract with the contract provider, and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and the applicable participating boards of county commissioners of the Secretary's intent to contract and shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.
- (9) Require reports of client characteristics, staffing patterns, agency policies or activities, services, or specific financial data of the area authority, county program, and providers of public services. The reports shall not identify individual clients of the area authority or county program unless specifically required by State law or by federal law or regulation or unless valid consent for the release has been given by the client or legally responsible person."

SECTION 1.8. G.S. 122C-115 reads as rewritten:

"§ 122C-115. ~~Powers and duties of counties and cities.~~ Duties of counties; appropriation and allocation of funds by counties and cities.

(a) ~~Except as provided in G.S. 153A-77, a county shall provide mental health, developmental disabilities, and substance abuse services through an area authority. A~~ county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.

(b) Counties shall and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) ~~Within~~ Except as authorized in G.S. 122C-115.1, within a catchment area designated by the Commission in the business plan pursuant to G.S. 122C-115.2, a

board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area ~~authority~~. authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area ~~authority~~. authority or county program."

SECTION 1.9. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new sections to read:

"§ 122C-115.1. County governance and operation of mental health, developmental disabilities, and substance abuse services program.

(a) A county may operate a county program for mental health, developmental disabilities, and substance abuse services as a single county or, pursuant to Article 20 of Chapter 160A of the General Statutes, may enter into an interlocal agreement with one or more other counties for the operation of a multicounty program. An interlocal agreement shall provide for the following:

- (1) Adoption and administration of the program budget in accordance with Chapter 159 of the General Statutes.
- (2) Appointment of a program director to carry out the provisions of G.S. 122C-111 and duties and responsibilities delegated by the county. Except when specifically waived by the Secretary, the program director shall meet the following minimum qualifications:
 - a. Masters degree,
 - b. Related experience, and
 - c. Management experience.
- (3) A targeted minimum population of 200,000 or a targeted minimum number of five counties served by the program.
- (4) Compliance with the provisions of this Chapter and the rules of the Commission and the Secretary.
- (5) Written notification to the Secretary prior to the termination of the interlocal agreement.
- (6) Appointment of an advisory committee. The interlocal agreement shall designate a county manager to whom the advisory committee shall report. The interlocal agreement shall also designate the appointing authorities. The appointing authorities shall make appointments that take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. At least fifty percent (50%) of the membership shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-(4).

(b) Before establishing a county program pursuant to this section, a county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(c) A county shall ensure that the county program and the services provided through the county program comply with the provisions of this Chapter and the rules adopted by the Commission and the Secretary.

(d) A county program shall submit on a quarterly basis to the Secretary and the board of county commissioners service delivery reports that assess the quality and availability of public services within the county program's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include an

assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.

(e) Within 30 days of the end of each quarter of the fiscal year, the program director and finance officer of the county program shall present to each member of the board of county commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. This information shall be read into the minutes of the meeting at which it is presented. The program director or finance officer of the county program shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(f) In a single-county program, the program director shall be appointed by the county manager. In a multicounty program, the program director shall be appointed in accordance with the terms of the interlocal agreement.

(g) In a single-county program, an advisory committee shall be appointed by the board of county commissioners and shall report to the county manager. The appointments shall take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. At least fifty percent (50%) of the membership shall conform to the requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory committee shall be appointed in accordance with the terms of the interlocal agreement.

(h) The county program may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program. As used in the applicable sections of this Article, the terms 'area authority', 'area program', and 'area facility' shall be construed to include 'county program'. The following sections of this Article do not apply to county programs:

- (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.
- (2) G.S. 122C-119 and G.S. 122C-119.1.
- (3) G.S. 122C-120 and G.S. 122C-121.
- (4) G.S. 122C-127.
- (5) G.S. 122C-147.
- (6) G.S. 122C-152 and G.S. 122C-153.
- (7) G.S. 122C-156.
- (8) G.S. 122C-158.

"§ 122C-115.2. Business plan required; content, process, certification.

(a) Every county, through an area authority or county program, shall provide for development, review, and approval of a business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. A business plan shall provide detailed information on how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness. The business plan shall be in effect for at least three State fiscal years.

(b) Business plans shall include the following:

- (1) Description of how the following core administrative functions will be carried out:
 - a. Planning. – Local services plans that identify service gaps and methods for filling the gaps, ensure the availability of an array of services based on consumer needs, provision of core services, equitable service delivery among member counties, and prescribing the efficient and effective use of all funds for targeted services. Local planning shall be an open process involving key stakeholders.

- b. Provider network development. – Ensuring available, qualified providers to deliver services based on the business plan. Development of new providers and monitoring provider performance and service outcomes. Provider network development shall address consumer choice and fair competition. For the purposes of this section, a 'qualified provider' means a provider who meets the provider qualifications as defined by rules adopted by the Secretary.
- c. Service management. – Implementation of uniform portal process. Service management shall include appropriate level and intensity of services, management of State hospitals/facilities bed days, utilization management, case management, and quality management. If services are provided directly by the area authority or county program, then the plan shall indicate how consumer choice and fair competition in the marketplace is ensured.
- d. Financial management and accountability. – Carrying out business functions in an efficient and effective manner, cost-sharing, and managing resources dedicated to the public system.
- e. Service monitoring and oversight. – Ensuring that services provided to consumers and families meet State outcome standards and ensure quality performance by providers in the network.
- f. Evaluation. – Self-evaluation based on statewide outcome standards and participation in independent evaluation studies.
- g. Collaboration. – Collaborating with other local service systems in ensuring access and coordination of services at the local level. Collaborating with other area authorities and county programs and the State in planning and ensuring the delivery of services.
- h. Access. – Ensuring access to core and targeted services.
- (2) Description of how the following will be addressed:
 - a. Reasonable administrative costs based on uniform State criteria for calculating administrative costs and costs or savings anticipated from consolidation.
 - b. Proposed reinvestment of savings toward direct services.
 - c. Compliance with the catchment area consolidation plan adopted by the Secretary.
 - d. Based on rules adopted by the Secretary, method for calculating county resources to reflect cash and in-kind contributions of the county.
 - e. Financial and services accountability and oversight in accordance with State and federal law.
 - f. The composition, appointments, selection process, and the process for notifying each board of county commissioners of all appointments made to the area authority board.
 - g. The population base of the catchment area to be served.
 - h. Use of local funds for the alteration, improvement, and rehabilitation of real property as authorized by and in accordance with G.S. 122C-147.
- (3) Other matters determined by the Secretary to be necessary to effectively and efficiently ensure the provision of mental health, developmental disabilities, and substance abuse services through an area authority or county program.

(c) The county program or area authority proposing the business plan shall submit the proposed plan as approved by the board of county commissioners to the Secretary for review and certification. The Secretary shall review the business plan within 30 days of receipt of the plan. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the area authority or county program as a single-county area authority, a single-county program, a multicounty area authority, or a multicounty program. Implementation of the certified plan shall begin within 30 days of certification. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county program or area authority and the applicable participating boards of county commissioners and shall indicate in the notification the changes that need to be made in order for the proposed program to be certified. The submitting county program or area authority shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues. Amendments to the business plan shall be subject to the approval of the participating boards of county commissioners.

(d) Annually, in accordance with procedures established by the Secretary, each area authority and county program submitting a business plan shall enter into a memorandum of agreement with the Secretary for the purpose of ensuring that State funds are used in accordance with priorities expressed in the business plan.

"§ 122C-115.3. Dissolution of area authority.

(a) Whenever the board of commissioners of each county constituting an area authority determines that the area authority is not operating in the best interests of consumers, it may direct that the area authority be dissolved. In addition, whenever a board of commissioners of a county that is a member of an area authority determines that the area authority is not operating in the best interests of consumers of that county, it may withdraw from the area authority. Dissolution of an area authority or withdrawal from the area authority by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a) of this section, no county shall withdraw from an area authority nor shall an area authority be dissolved without first demonstrating that continuity of services will be assured and without prior approval of the Secretary.

(c) Prior to withdrawal of a county from an area authority, the county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(d) Prior to dissolution of an area authority, the area authority shall hold a public hearing with notice published in every participating county at least 10 days before the hearing.

(e) Any budgetary surplus available to an area authority at the time of its dissolution shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the area authority. The area authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described in this subsection shall apply when one or more counties of an area authority withdraw from the area authority.

(f) Funds distributed to counties pursuant to subsection (e) of this section shall be placed in the fund balance of the county program or area authority subsequently established or joined pursuant to G.S. 122C-115.

(g) Any liabilities at the time of its dissolution shall be paid from unobligated surplus funds available to the area authority. If unobligated surplus funds are not

sufficient to satisfy the total indebtedness of the area authority, then the remaining unsatisfied indebtedness shall be apportioned on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year."

SECTION 1.10. G.S. 122C-117 reads as rewritten:

"§ 122C-117. Powers and duties of the area authority.

- (a) The area authority ~~shall:~~ shall do all of the following:
- (1) Engage in comprehensive planning, budgeting, implementing, and monitoring of community-based mental health, developmental disabilities, and substance abuse ~~services;~~ services.
 - (2) ~~Provide~~Ensure the provision of services to clients in the catchment area, including clients committed to the custody of the Department of Juvenile Justice and Delinquency ~~Prevention;~~ Prevention.
 - (3) Determine the needs of the area authority's clients and coordinate with the Secretary and with the Department of Juvenile Justice and Delinquency Prevention the provision of services to clients through area and State ~~facilities;~~ facilities.
 - (4) Develop plans and budgets for the area authority subject to the approval of the ~~Secretary;~~ Secretary. The area authority shall submit the approved budget to the board of county commissioners and the county manager and provide quarterly reports on the financial status of the program in accordance with subsection (c) of this section.
 - (5) Assure that the services provided by the county through the area authority meet the rules of the Commission and ~~Secretary;~~ Secretary.
 - (6) Comply with federal requirements as a condition of receipt of federal ~~grants; and grants.~~
 - (7) ~~Appoint an area director, chosen through a search committee on which the Secretary of the Department of Health and Human Services or the Secretary's designee serves as a nonvoting member. Appoint an area director in accordance with G.S. 122C-121(d). The appointment is subject to the approval of the board of county commissioners except that one or more boards of county commissioners may waive its authority to approve the appointment. The appointment shall be based on a selection by a search committee of the area authority board. The search committee shall include consumer board members, a county manager, and one or more county commissioners. The Secretary shall have the option to appoint one member to the search committee.~~
 - (8) Develop and submit to the board of county commissioners for approval the business plan required under G.S. 122C-115.2. A multicounty area authority shall submit the business plan to each participating board of county commissioners for its approval. The boards of county commissioners of a multicounty area authority shall jointly submit one approved business plan to the Secretary for approval and certification.
 - (9) Perform public relations and community advocacy functions.
 - (10) Recommend to the board of county commissioners the creation of local program services.
 - (11) Submit to the Secretary and the board of county commissioners service delivery reports, on a quarterly basis, that assess the quality and availability of public services within the area authority's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include

an assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.

(12) Comply with this Article and rules adopted by the Secretary for the development and submission of and compliance with the area authority business plan.

(a1) The area authority may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(b) The governing unit of the area authority is the area board. All powers, duties, functions, rights, privileges, or immunities conferred on the area authority may be exercised by the area board.

(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide to each member of the board of county commissioners the quarterly report of the area authority. This information shall be presented in a format prescribed by the county. At least twice a year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(d) A multicounty area authority shall provide to each board of county commissioners of participating counties a copy of the area authority's annual audit. The audit findings shall be presented in a format prescribed by the county and shall be read into the minutes of the meeting at which the audit findings are presented."

SECTION 1.11.(a) G.S. 122C-118 is repealed.

SECTION 1.11.(b) Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-118.1. Structure of area board.

(a) An area board shall have no fewer than 11 and no more than 25 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C-155.2(b). These appointments shall take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include an individual with financial expertise or a county finance officer, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

(b) At least fifty percent (50%) of the members of the area board shall represent the following:

(1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry.

(2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse.

- (3) A family member or an individual from citizens' organizations composed primarily of consumers or their family members, representing the interests of individuals:
 - a. With mental illness; and
 - b. In recovery from addiction; and
 - c. With developmental disabilities.
- (4) Openly declared consumers:
 - a. With mental illness; and
 - b. With developmental disabilities; and
 - c. In recovery from addiction.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity. The terms of county commissioners on an area board are concurrent with their terms as county commissioners. The terms of the other members on the area board shall be for four years, except that upon the initial formation of an area board one-fourth shall be appointed for one year, one-fourth for two years, one-fourth for three years, and all remaining members for four years. Members other than county commissioners shall not be appointed for more than two consecutive terms.

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes."

SECTION 1.11.(c) G.S. 122C-119 reads as rewritten:

"§ 122C-119. Organization of area board.

- (a) The area board shall meet at least six times per year.
- (b) Meetings shall be called by the area board chairman or by three or more members of the board after notifying the area board chairman in writing.
- (c) Members of the area board elect the board's chairman. The term of office of the area board chairman shall be one year. A county commissioner area board member may serve as the area board chairman.
- (d) The area board shall establish a finance committee that shall meet at least six times per year to review the financial strength of the area program. The finance committee shall have a minimum of three members, two of whom have expertise in budgeting and fiscal control. The member of the area board who is the county finance officer or individual with financial expertise shall serve as an ex officio member. All other finance officers of participating counties in a multicounty area authority may serve as ex officio members. If the area board so chooses, the entire area board may function as the finance committee; however, its required meetings as a finance committee shall be distinct from its meetings as an area board."

SECTION 1.12. G.S. 122C-121 reads as rewritten:

"§ 122C-121. Area director.

~~(a) The area director is an employee of the area board and shall serve at the pleasure of the area board. The director is responsible for the staff appointments, for implementation of the policies and programs of the board in compliance with rules of the Commission and the Secretary, and for the supervision of all service programs and staff. The area director is an employee of the area board and shall be appointed in accordance with G.S. 122C-117(7). The area director is the administrative head of the area program.~~

(b) The area board shall evaluate annually the area director for performance based on criteria established by the Secretary and the area board. In conducting the evaluation, the area board shall consider comments from the board of county commissioners.

(c) In addition to the duties under G.S. 122C-111, the area director shall:

- (1) Appoint and supervise area program staff.

- (2) Administer area authority services.
- (3) Develop the budget of the area authority for review by the area board.
- (4) Provide information and advice to the board of county commissioners through the county manager.
- (5) Act as liaison between the area authority and the Department.

(d) Except when specifically waived by the Secretary, the area director shall meet the following minimum qualifications:

- (1) Masters degree;
- (2) Related experience; and
- (3) Management experience."

SECTION 1.13.(a) G.S. 122C-124, 122C-125.1, and 122C-126 are repealed.

SECTION 1.13.(b) Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-124.1. Actions by the Secretary when area authority or county program is not providing minimally adequate services.

(a) Notice of Likelihood of Action. – When the Secretary determines that there is a likelihood of suspension of funding, assumption of service delivery or management functions, or appointment of a caretaker board under this section within the ensuing 60 days, the Secretary shall so notify in writing the area authority board or the county program and the board of county commissioners of the area authority or county program. The notice shall state the particular deficiencies in program services or administration that must be remedied to avoid action by the Secretary under this section. The area authority board or county program shall have 60 days from the date it receives notice under this subsection to take remedial action to correct the deficiencies. The Secretary shall provide technical assistance to the area authority or county program in remedying deficiencies.

(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. – If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate services, in accordance with rules adopted by the Secretary or the Commission, to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:

- (1) Withhold funding for the particular service or services in question from the area authority or county program and ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department.

Upon suspension of funding, the Department shall direct the development and oversee implementation of a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of any ongoing concerns or problems with the area authority's or county program's finances or delivery of services.

- (2) Assume control of the particular service or management functions in question or of the area authority or county program and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority or county program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all other service delivery powers conferred on the area authority or county program by law as they pertain to this service or management function. County funding of the area authority or county program shall continue when the State has assumed control of the catchment area or of the area authority or county program. At no time after the State has

assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program.

Upon assumption of control of service delivery or management functions, the Department shall, in conjunction with the area authority or county program, develop and implement a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of the plan. The Department shall also keep the area authority board and the board of county commissioners informed of any ongoing concerns or problems with the delivery of services.

(c) Appointment of Caretaker Administrator. – In the event that a county, through an area authority or county program, fails to comply with the corrective plan of action required when funding is suspended or when the State assumes control of service delivery or management functions, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and the applicable participating boards of county commissioners of the area authority or county program, shall appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the area director or program director or of the area authority board or board of county commissioners of the area authority or county program pertaining to the operation of mental health, developmental disabilities, and substance abuse services to the caretaker board or to the caretaker administrator as it deems necessary and appropriate to continue to provide direct services to clients, including the powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority or county program by law pertaining to the operation of mental health, developmental disabilities, and substance abuse services. County funding of the area authority or county program shall continue when the State has assumed control of the financial affairs of the program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program. The caretaker administrator and the caretaker board shall perform all of these powers and duties. The Secretary may terminate the area director or program director when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall apply to the decision to terminate the area director or program director. Neither party to any such contract shall be entitled to damages. After a caretaker board has been appointed, the General Assembly shall consider, at its next regular session, the future governance of the identified area authority or county program."

SECTION 1.14. G.S. 122C-132 and G.S. 122C-132.1 are repealed.

SECTION 1.15. G.S. 122C-141 reads as rewritten:

"§ 122C-141. Provision of services.

(a) The area authority may provide services directly and may contract with other public or private agencies, institutions, or resources for the provision of services or county program shall contract with other qualified public or private providers, agencies, institutions, or resources for the provision of services, and, subject to the approval of the Secretary, is authorized to provide services directly. The area authority or county program shall indicate in its local business plan how services will be provided and how the provision of services will address issues of access, availability of qualified public or private providers, consumer choice, and fair competition. The Secretary shall take into account these issues when reviewing the local business plan and considering approval of the direct provision of services. The Secretary shall develop criteria for the approval of direct service provision by area authorities and county programs in accordance with this section and as evidenced by compliance with the local business plan. For the purposes of this section, a qualified public or private provider is a provider that meets the provider qualifications as defined by rules adopted by the Secretary.

(b) All area authority or county program services provided directly or under contract shall meet the requirements of applicable State statutes and the rules of the

Commission and the Secretary. The Secretary may delay payments and, with written notification of cause, may reduce or deny payment of funds if an area authority or county program fails to meet these requirements.

(c) The area authority or board of county commissioners of a county program may contract with a health maintenance organization, certified and operating in accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for the area ~~authority~~, authority or county program, to provide mental health, developmental disabilities, or substance abuse services to enrollees in a health care plan provided by the health maintenance organization. The terms of the contract must meet the requirements of all applicable State statutes and rules of the Commission and Secretary governing both the provision of services by an area authority or county program and the general and fiscal operation of an area authority or county program and the reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a State statute or rule of the Commission or the Secretary shall be void; however, the presence of any void provision in that contract does not render void any other provision in that contract which is not in conflict with a State statute or rule of the Commission or the Secretary. Subject to approval by the Secretary and pending the timely reimbursement of the contractual charges, the area authority or county program may expend funds for costs which may be incurred by the area authority or county program as a result of providing the additional services under a contractual agreement with a health maintenance organization."

SECTION 1.16. G.S. 122C-143.2 is repealed.

SECTION 1.17.(a) G.S. 122C-151.2 reads as rewritten:

"§ 122C-151.2. Appeal by area ~~authorities~~, authorities and county programs.

(a) The area authority or county program may appeal to the Commission any action regarding rules under the jurisdiction of the Commission or rules under the joint jurisdiction of the Commission and the Secretary.

(b) The area authority or county program may appeal to the Secretary any action regarding rules under the jurisdiction of the Secretary.

(c) Appeals shall be conducted according to rules adopted by the Commission and Secretary and in accordance with Chapter 150B of the General Statutes."

SECTION 1.17.(b) G.S. 122C-151.3 reads as rewritten:

"§ 122C-151.3. Dispute with area ~~authorities~~, authorities or county programs.

An area authority or county program shall establish written procedures for resolving disputes over decisions of an area authority or county program that may be appealed to the ~~Area Authority~~ State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The procedures shall be informal and shall provide an opportunity for those who dispute the decision to present their position."

SECTION 1.17.(c) G.S. 122C-151.4 reads as rewritten:

"§ 122C-151.4. Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.

(a) Definitions. – The following definitions apply in this section:

- (1) "Contract" means a contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.
- (2) "Contractor" means a person who has a contract or who had a contract during the current fiscal year.
- (3) "Former contractor" means a person who had a contract during the previous fiscal year.
- (4) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.
- (5) "Client" means an individual who is admitted to or receiving public services from an area facility. "Client" includes the client's personal representative or designee.

(b) Appeals Panel. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The Secretary shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Secretary.

(c) Who Can Appeal. – The following persons may appeal to the ~~Area Authority~~ State MH/DD/SA Appeals Panel after having exhausted the appeals process at the appropriate area authority or county program:

- (1) A contractor or a former contractor who claims that an area authority or county program is not acting or has not acted within applicable State law or rules in imposing a particular requirement on the contractor on fulfillment of the contract;
- (2) A contractor or a former contractor who claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the contract;
- (3) A contractor or former contractor who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former contractor;
- (4) A client or a person who was a client in the previous fiscal year, who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client directly by the area ~~authority~~; authority or county program; and
- (5) A person who claims that an area authority or county program did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the area authority or county program and that the ~~area authority's~~ failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the ~~Area Authority~~ State MH/DD/SA Appeals Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within the time required by the Secretary and shall be heard by the Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person who appeals to the Panel has the burden of proof. The Panel shall not stay a decision of an area authority during an appeal to the Panel.

(e) Decision. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct a ~~contractor or~~ contractor, an area ~~authority~~ authority or county program to take an action or to refrain from taking an action, but it shall not require a party to the appeal to pay any amount except payment due under the contract. In making a decision, the Panel shall determine the course of action that best protects or benefits the clients of the area ~~authority~~ authority or county program. If a party to an appeal fails to comply with a decision of the Panel and the Secretary determines that the failure deprives clients of the area authority or county program of a type of needed service, the Secretary may use funds previously allocated to the area authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding ~~G.S. 150B-2(1)~~, G.S. 150B-2(1a), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case."

SECTION 1.18. G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area ~~authority~~ director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1."

SECTION 1.19. G.S. 122C-181 reads as rewritten:

"§ 122C-181. Secretary's jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

- (1) For the mentally ill:
 - a. Cherry Hospital;
 - b. Dorothea Dix Hospital;
 - c. John Umstead Hospital; and
 - d. Broughton Hospital; and
- (2) For the mentally retarded:
 - a. Caswell Center;
 - b. O'Berry Center;
 - c. Murdoch Center;
 - d. Western Carolina Center; and
 - e. Black Mountain Center; and
- (3) For substance abusers:
 - a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville;
 - b. Alcohol and Drug Abuse Treatment ~~Center at Butner;~~ Center at John Umstead Hospital; and
 - c. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center at Black Mountain; Center;~~ and
- (4) As special care facilities:
 - a. ~~Wilson~~ North Carolina Special Care Center;
 - b. Whitaker School; and
 - c. ~~Wright School;~~ School.
 - d. ~~Butner Adolescent Treatment Center.~~

(b) ~~The~~ Subject to the requirements of subsection (c) of this section, the Secretary may, with the approval of the Governor and Council of State, close any State facility.

(c) Closure of a State facility under subsection (b) of this section becomes effective on the earlier of the 31st legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 10 days after the date the closure is approved, unless a different effective date applies under this subsection. If a bill that specifically disapproves the State facility closure is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the closure becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the State facility closure. If the Secretary specifies a later effective date for closure than the date that would otherwise apply under this subsection, the later date applies. Closure of a State facility does not become effective if the closure is specifically disapproved by a bill ratified by the General Assembly before it becomes effective. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove closure of a facility that has been approved by the Governor and Council of State as provided in subsection (b) of this section. Nothing in this subsection shall be construed to impair the Secretary's power or duty otherwise imposed by law to close a State facility temporarily for the protection of health and safety."

SECTION 1.20.(a) G.S. 122C-112(13) is repealed.

SECTION 1.20.(b) Part 1 of Article 3 of Chapter 143B of the General Statutes is amended by adding the following new section to read:

"§ 143B-139.6A. Secretary's responsibilities regarding availability of early intervention services.

The Secretary of the Department of Health and Human Services shall ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

The Secretary shall adopt rules to implement the early intervention system, in consultation with all other appropriate agencies."

SECTION 1.21.(a) G.S. 143B-147 reads as rewritten:

"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – creation, powers and duties.

(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, ~~alcohol and drug abuse~~ substance abuse programs including education, prevention, intervention, ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the ~~mental health, illness, developmental disabilities, or alcohol and drug abuse~~ substance abuse problems of the citizens of this State. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

(1) To adopt rules regarding the

- a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;
- b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse ~~authorities~~ authorities, county programs, and all providers of public services under Part 4 of Article 4 of Chapter 122C of the General Statutes;
- c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 of Chapter 122C of the General Statutes; and
- d. ~~Requirements of the federal government for grants in aid for mental health, developmental disabilities, alcohol or drug abuse programs which may be made available to local programs or the State. This section is to be liberally construed in order that the State and its citizens may benefit from such grants in aid; and~~

- e. ~~Implementation of single uniform portal process and policies of entry and exit policies established pursuant to Chapter 122C of the General Statutes.~~
 - f. Standards of public services for mental health, developmental disabilities, and substance abuse services.
- (2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes.
 - (3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:
 - a. Mental illness and mental health,
 - b. Developmental disabilities,
 - c. ~~Alcohol abuse, and~~ Substance abuse.
 - d. ~~Drug abuse;~~
 - (4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration of plans involving mental health, developmental disabilities, ~~alcohol abuse, and drug abuse services; and~~ substance abuse services.
 - (5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by ~~G.S. 90-100; G.S. 90-100.~~
 - (6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or ~~welfare; welfare.~~
 - (7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General ~~Statutes; Statutes.~~
 - (8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(b) All rules hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of the Department of Health and Human Services provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services, controlled substances rules and regulations adopted by the North Carolina Drug Commission, and all rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall remain in full force and effect unless and until repealed or superseded by action of the

Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(d) All rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be enforced by the Department of Health and Human Services."

SECTION 1.21.(b) G.S. 143B-148 reads as rewritten:

"§ 143B-148. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of 26 members:

- (1) Four of whom shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. have concern for the problems of mental illness, developmental disabilities, alcohol and drug abuse. Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;
- (2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.
 - a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.
 - b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.
 - c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.
 - d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.
- (3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

PART 2. MH/DD/SA CONSUMER ADVOCACY PROGRAM

SECTION 2. Effective July 1, 2002, Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"MH/DD/SA Consumer Advocacy Program.

"§ 122C-10. MH/DD/SA Consumer Advocacy Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established the MH/DD/SA Consumer Advocacy Program. The purpose of this Program is to provide consumers, their families, and providers with the information and advocacy needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

"§ 122C-11. MH/DD/SA Consumer Advocacy Program/definitions.

Unless the context clearly requires otherwise, as used in this Article:

- (1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
- (2) 'State Consumer Advocate' means the individual charged with the duties and functions of the State MH/DD/SA Consumer Advocacy Program established under this Article.
- (3) 'State Consumer Advocacy Program' means the State MH/DD/SA Consumer Advocacy Program.
- (4) 'Local Consumer Advocate' means an individual employed and certified by the State Consumer Advocate to perform the duties and functions of the MH/DD/SA Local Consumer Advocacy Program in accordance with this Article.
- (5) 'Local Consumer Advocacy Program' means a local MH/DD/SA Local Consumer Advocacy Program.
- (6) 'Consumer' means an individual who is a client or a potential client of public services from a State or area facility.

"§ 122C-12. State MH/DD/SA Consumer Advocacy Program.

The Secretary shall establish a State MH/DD/SA Consumer Advocacy Program office in the Office of the Secretary of Health and Human Services. The Secretary shall appoint a State Consumer Advocate. In selecting the State Consumer Advocate, the

Secretary shall consider candidates recommended by citizens' organizations representing the interest of individuals with needs for mental health, developmental disabilities, and substance abuse services. The State Consumer Advocate may hire individuals to assist in executing the State Consumer Advocacy Program and to act on the State Consumer Advocate's behalf. The State Consumer Advocate shall have expertise and experience in MH/DD/SA, including expertise and experience in advocacy. The Attorney General shall provide legal staff and advice to the State Consumer Advocate.

"§ 122C-13. State Consumer Advocate duties.

The State Consumer Advocate shall:

- (1) Establish Local Quality Care Consumer Advocacy Programs described in G.S. 122C-14 and appoint the Local Consumer Advocates.
- (2) Establish certification criteria and minimum training requirements for Local Consumer Advocates.
- (3) Certify Local Consumer Advocates. The certification requirements shall include completion of the minimum training requirements established by the State Consumer Advocate.
- (4) Provide training and technical Advocacy to Local Consumer Advocates.
- (5) Establish procedures for processing and resolving complaints both at the State and local levels.
- (6) Establish procedures for coordinating complaints with local human rights committees and the State protection and advocacy agency.
- (7) Establish procedures for appropriate access by the State and Local Consumer Advocates to State, area authority, and county program facilities and records to ensure MH/DD/SA. The procedures shall include, but not be limited to, interviews of owners, consumers, and employees of State, area authority, and county program facilities, and on-site monitoring of conditions and services. The procedures shall ensure the confidentiality of these records and that the identity of any complainant or consumer will not be disclosed except as otherwise provided by law.
- (8) Provide information to the public about available MH/DD/SA services, complaint procedures, and dispute resolution processes.
- (9) Analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to consumers and recommend changes as considered necessary to the Secretary.
- (10) Analyze and monitor data relating to complaints or concerns about access and issues to identify significant local or systemic problems, as well as opportunities for improvement, and advise and assist the Secretary in developing policies, plans, and programs for ensuring that the quality of services provided to consumers is of a uniformly high standard.
- (11) Submit a report annually to the Secretary, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Health Care Oversight Committee containing data and findings regarding the types of problems experienced and complaints reported by or on behalf of providers, consumers, and employees of providers, as well as recommendations to resolve identified issues and to improve the administration of MH/DD/SA facilities and the delivery of MH/DD/SA services throughout the State.

"§ 122C-14. Local Consumer Advocate; duties.

(a) The State Consumer Advocate shall establish a Local MH/DD/SA Consumer Advocacy Program in locations in the State to be designated by the Secretary. In

determining where to locate the Local Consumer Advocacy Programs, the Secretary shall ensure reasonable consumer accessibility to the Local Consumer Advocates. Local Consumer Advocates shall administer the Local Consumer Advocacy Programs. The State Consumer Advocate shall appoint a Local Consumer Advocate for each of the Local Consumer Advocacy Programs. The State Consumer Advocate shall supervise the Local Consumer Advocates.

(b) Pursuant to policies and procedures established by the State Consumer Advocate, the Local Consumer Advocate shall:

- (1) Assist consumers and their families with information, referral, and advocacy in obtaining appropriate services.
- (2) Assist consumers and their families in understanding their rights and remedies available to them from the public service system.
- (3) Serve as a liaison between consumers and their families and facility personnel and administration.
- (4) Promote the development of consumer and citizen involvement in addressing issues relating to MH/DD/SA.
- (5) Visit the State, area authority, or county program facilities to review and evaluate the quality of care provided to consumers and submit findings to the State Consumer Advocate.
- (6) Work with providers and consumers and their families or advocates to resolve issues of common concern.
- (7) Participate in regular Local Consumer Advocate training established by the State Consumer Advocate.
- (8) Report regularly to area authorities and county programs, county and area authority boards, and boards of county commissioners about the Local Consumer Advocate's activities, including the findings made pursuant to subdivision (5) of this subsection.
- (9) Provide training and technical assistance to counties, area authority boards, and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.
- (10) Coordinate activities with local human rights committees based on procedures developed by the State Consumer Advocate.
- (11) Provide information to the public on MH/DD/SA issues.
- (12) Perform any other related duties as directed by the State Consumer Advocate.

"§ 122C-15. State/Local Consumer Advocate; authority to enter; communication with residents, clients, patients; review of records.

(a) For purposes of this section, G.S. 122C-16 and G.S. 122C-17, 'Consumer Advocate' means either the State Consumer Advocate or any Local Consumer Advocate.

(b) In performing the Consumer Advocate's duties, a Consumer Advocate shall have access at all times to any State or area facility and shall have reasonable access to any consumer or to an employee of a State or area facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Consumer Advocate shall register.

(c) In performing the Consumer Advocate's duties, a Consumer Advocate may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with a Consumer Advocate. When initiating communication, a Consumer Advocate shall inform the consumer of the Consumer Advocate's purpose and that a consumer may refuse to communicate with the Consumer Advocate. A Consumer Advocate also may communicate privately and confidentially with State and area facility employees in performing the Consumer Advocate's duties.

(d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Consumer Advocate's duties, the Consumer Advocate may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law pertaining to the privacy of personnel records, in the course of the Consumer Advocate's duties, the Consumer Advocate shall have access to personnel records of employees of State, area authority, or county program facilities.

"§ 122C-16. State/Local Consumer Advocate; resolution of complaints.

(a) Following receipt of a complaint, a Consumer Advocate shall attempt to resolve the complaint using, whenever possible, informal mediation, conciliation, and persuasion.

(b) If a complaint concerns a particular consumer, the consumer may participate in determining what course of action the Consumer Advocate should take on the consumer's behalf. If the consumer has an opinion concerning a course of action, the Consumer Advocate shall consider the consumer's opinion.

(c) Following receipt of a complaint, a Consumer Advocate shall contact the service provider to allow the service provider the opportunity to respond, provide additional information, or initiate action to resolve the complaint.

(d) Complaints or conditions adversely affecting consumers that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the Consumer Advocate to the appropriate licensing agency under Article 2 of this Chapter.

"§ 122C-17. State/Local Consumer Advocate; confidentiality.

(a) Except as required by law, a Consumer Advocate shall not disclose the following:

(1) Any confidential or privileged information obtained pursuant to G.S. 122C-15 unless the affected individual authorizes disclosure in writing; or

(2) The name of anyone who has furnished information to a Consumer Advocate unless the individual authorizes disclosure in writing.

(b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine not to exceed five hundred dollars (\$500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing information to a Consumer Advocate are exempt from disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and redisclosure of protected information shall be in compliance with federal confidentiality laws protecting medical records.

"§ 122C-18. State/Local Consumer Advocate; retaliation prohibited.

No one shall discriminate or retaliate against any person, provider, or facility because the person, provider, or facility in good faith complained or provided information to a Consumer Advocate.

"§ 122C-19. State/Local Consumer Advocate; immunity from liability.

(a) The State and Local Consumer Advocate shall be immune from liability for the good faith performance of official Consumer Advocate duties.

(b) A State or area facility, its employees, and any other individual interviewed by a Consumer Advocate are immune from liability for damages resulting from disclosure of any information or documents to a Consumer Advocate pursuant to this Article.

"§ 122C-20. State/Local Consumer Advocate; penalty for willful interference.

Willful interference by an individual other than the consumer or the consumer's representative with the State or a Local Consumer Advocate in the performance of the Consumer Advocate's official duties is a Class 1 misdemeanor."

PART 3. PHASED IN IMPLEMENTATION

SECTION 3.(a) The Department of Health and Human Services shall do the following to prepare for the certification of area authorities and county programs to administer and deliver mental health, developmental disabilities, and substance abuse services.

- (1) Develop the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with G.S. 122C-102. Not later than December 1, 2001, the Department shall submit the State Plan to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services for its review.
- (2) Review all rules currently in effect and adopted by the Secretary, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and identify areas of duplication, vagueness, or ambiguity in content or in application. In conducting this review, the Department shall solicit input from current area authorities and providers on perceived problems with rules. The review may also include review of rules pertaining to mental health, developmental disabilities, and substance abuse services that are in effect and adopted by agencies other than the Secretary and the Commission.
- (3) Review the oversight and monitoring functions currently implemented by the Department to determine the effectiveness of the activities in achieving the intended results. Improve the oversight and monitoring functions and activities, if necessary.
- (4) Develop service standards, outcomes, and a financing formula for core and targeted services to prepare for their administration, financing, and delivery by area authorities and county programs.
- (5) Develop format and required content for business plans submitted by boards of county commissioners and for contractual agreements between the Department and area authorities or county commissioners for county programs. Develop a method for departmental evaluation of local business plans. Contractual agreements for the provision of services shall provide for:
 - a. Terms of a minimum of three years.
 - b. Annual review and renewal.
 - c. Specific conditions under which the Department will provide technical assistance, impose sanctions, or terminate participation.
 - d. Terms of the business plan.
 - e. Award of start-up funds for consolidation of area or county programs.
- (6) Report on the Department's readiness to implement system reform.
- (7) Establish criteria and operational procedures for the Consumer Advocacy Program and make a report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.
- (8) Develop a catchment area consolidation plan. The Secretary shall anticipate receiving letters of intent from boards of county commissioners on or before October 1, 2002, indicating the intent of a county or counties to provide services through an existing area authority or through a county program established pursuant to G.S. 122C-115.1. The Secretary shall develop the consolidation plan based on the letters of intent, the State Plan, geographic and population targeted thresholds, and capacity to implement the business plan. The consolidation plan shall provide for consolidation target of no more

than 20 area authorities and county programs. The Secretary, in consultation with county commissioners and area authorities, shall complete the consolidation plan by September 1, 2004, and shall submit it no later than January 1, 2005, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Governor, and each board of county commissioners. The total number of area authorities and county programs shall be reduced to no more than a target of 20 by January 1, 2007.

- (9) Develop a readiness plan to conduct readiness reviews and certify all county programs and area authorities based on readiness by July 1, 2004. Each area authority and county program shall submit its approved business plan to the Secretary pursuant to G.S. 122C-115.2 by January 1, 2003. The Secretary shall review the business plans as provided in G.S. 122C-115.2(c), conduct readiness reviews, and provide necessary assistance to resolve outstanding issues. The Secretary shall complete certification of one-third of the area authorities and county programs by July 1, 2003; two-thirds of the area authorities and county programs by January 1, 2004; and shall complete certification of all area authorities and county programs by July 1, 2004.

The activities required under subdivisions (1) through (6) of this section shall be completed by December 1, 2001. On or before December 1, 2001, and quarterly thereafter, the Department shall submit a progress report on each of the activities required under this section. The Department shall make its reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 3.(b) Rules adopted by the Secretary of Health and Human Services and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be adopted in accordance with Chapter 150B of the General Statutes.

SECTION 3.(c) The Secretary shall study consolidating the Quality of Care Consumer Advocacy Program as provided in Section 2 of this act with other consumer advocacy or ombudsman programs in the Department of Health and Human Services. The study shall include:

- (1) An analysis of the budgetary implications of consolidation;
- (2) Strategies for local interagency collaboration and coordination of ombudsman and consumer assistance services; and
- (3) The possible effects of the consolidation on quality of care, service delivery, and consumer assistance for each affected consumer population.

The Secretary shall report the findings and recommendations, including enabling legislation, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.

SECTION 3.(d) The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall conduct an in-depth review of the current methods of and disparities in the allocation of State funding to area authorities and county programs for mental health, developmental disabilities, and substance abuse services and shall recommend necessary changes in allocation formulae, methods, and procedures that will ensure equitable allocation and use of State funds to provide these services throughout the State. Not later than May 1, 2002, the Committee shall report its findings and recommendations, including fiscal information on the cost to address funding allocation disparities, to the General Assembly, the House of Representatives Appropriations Subcommittee on Health and

Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

PART 4. EFFECTIVE DATE

SECTION 4. Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective July 1, 2002, only if funds are appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose. The remainder of this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:40 p.m. this 15th day of October, 2001